

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 7477 (Application 19203)

Chalone Wine Group-Acacia Winery

**ORDER APPROVING CHANGES IN PLACE OF USE
AND AMENDING THE LICENSE**

SOURCE: Unnamed Stream tributary to Huichica Creek

COUNTY: Napa

WHEREAS:

1. License 7477 was issued to Weston and Loma Coffield on November 2, 1965, pursuant to Application 19203, and subsequently assigned to the Chalone Wine Group-Acacia Winery.
2. A petition to increase the place of use under License 7477 was filed with the State Water Resources Control Board (SWRCB) on May 19, 1997, and subsequently amended to include additional acreage on March 29, 1999. Licensee proposed to combine the place of use under License 7477 and Permit 20917 (Application 30229) by interconnecting the two separate irrigation systems to maximize use of water within the combined places of use. The SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on July 16, 1999, and no protests were received.
3. A review of License 7477 by the SWRCB revealed that updates to the Cuttings Wharf U.S.G.S. Quadrangle map have more definitely defined the tributary streams downstream of the Licensee's project and the source and tributaries in the license should be corrected to conform to the updated stream sequence.
4. The SWRCB has determined that the petition for change in place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. License 7477 should be amended to include the current terms regarding the continuing authority and water quality objectives of the SWRCB in accordance with sections 780(a) & (b), title 23 of the California Code of Regulations.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.
7. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a term should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

NOW, THEREFORE, IT IS ORDERED THAT LICENSE 7477 IS AMENDED TO READ AS FOLLOWS:

1. The description of the source under License 7477 is corrected to read as follows:

Unnamed Stream tributary to Huichica Creek thence Hudeman Slough thence Second Napa Slough thence Sonoma Creek

2. The description of the place of use under License 7477 is amended to read as follows:

Recreational, Stockwatering, and Fire Protection use at reservoir being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected section 31, T5N, R4W, MDB&M.

Irrigation of 100 acres described as follows:

2 acres within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
9 acres within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
4 acres within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
38 acres within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
12 acres within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
35 acres within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M

100 acres total, as shown on map on file with the SWRCB.

3. The existing continuing authority condition of License 7477 is updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

4. The following water quality objectives condition is added to License 7477:

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

5. The following Endangered Species and Archeological conditions are added to License 7477:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.


(0000014)

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

6. All other terms and conditions of License 7477 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

for 
Edward C. Anton, Chief
Division of Water Rights

Dated:

MAR 13 2002



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 19203

PERMIT 12432

LICENSE 7477

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THIS IS TO CERTIFY, That

Chalone Wine Group-Acacia Winery
2750 Las Amigas Road
Napa, CA 94559

Has the right to use waters of **Unnamed Stream** in **Napa County** tributary to **Huichica Creek** thence

Hudeman Slough thence **Second Napa Slough** thence **Sonoma Creek**

for the purpose of **Irrigation, Recreation, Stockwatering, and Fire Protection Uses**

Amended **License 7477** supersedes the license originally issued on **November 2, 1965**, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of **Permit 12432**. The priority of this right dates from **January 29, 1960**. Proof of maximum beneficial use of water pursuant to **Application 19203** was made as of **September 2, 1964** (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **nine (9) acre-feet per annum to be collected to storage from about December 1 of each year to about March 30 of the following year.**

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION IS LOCATED:

North eighty (80) feet and west two thousand one hundred forty (2,140) feet from SE corner of projected section 31, T5N, R4W, MDB&M, being within SW¼ of SE¼ of said section 31.

Also described by California Coordinates of 1927, Zone 2, North 205,600 feet and East 1,901,800 feet.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Recreational, Stockwatering, and Fire Protection use at reservoir being within SW¼ of SE¼ of projected section 31, T5N, R4W, MDB&M.

Irrigation of 100 acres described as follows:

2 acres within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
9 acres within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
4 acres within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
38 acres within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M
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35 acres within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 31, T5N, R4W, MDB&M

100 acres total, as shown on map on file with the SWRCB.

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.


Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

for 
Edward C. Anton, Chief
Division of Water Rights

Dated: MAR 13 2002